

REMARKS

Claims 1-5 are currently pending in the application.

In the Office Action, the Examiner has again rejected Claims 1-5 under 35 U.S.C. §102(e) as being anticipated by *Mittelstadt et al.* (U.S. 6,389,280 B1).

As indicated above, the Examiner has rejected all independent claims, i.e., Claims 1-2 and 4-5, under 35 U.S.C. §102(e) as being anticipated by *Mittelstadt*. However, it is respectfully submitted that the Examiner is incorrect.

As previously argued, each of the independent claims is directed to either a device or method for menu navigation. As such, each independent claim performs the navigation based upon the amount of time an input button is pressed. For example, Claim 1 recites a timer module for *determining a time for which a directional button is pressed*, and a pointer carrier for shifting a position of a pointer in response to said shift command, wherein said shift command directs said pointer carrier to shift said pointer to a next menu item if said determined time is less than a preset time, and said shift command directs said pointer carrier to shift said pointer to a next menu page if said determined time is greater than or equal to said preset time.

The Examiner cites the operations of the time-out logic 113 of *Mittelstadt*, as teaching this type of operation. However, the time-out logic 113 merely times a period for which an input can be received. If an input is not received in that time period, the unit refers to an existing configuration. The time-out logic 113 does not keep track of a time for which a button is being pressed, i.e., a duration of a signal, as is recited in the claims of the present invention.

In response to the previous argument, the Examiner asserts that the argument that "the time-out logic 113 of *Mittelstadt* does not keep track of a time for which a button is being pressed" is not persuasive because limitations from the specification are

not read into the claims. However, independent Claim 1, for example, has previously been amended to explicitly recite a timer module for determining *a time for which* a directional button is pressed. Additionally, independent Claims 2 and 4-5 clearly recite that a timer calculates if a button is pressed for a specific duration. Therefore, it is respectfully submitted this recitation is directly included in the claim and does not need to be read in from the specification.

Further, the Examiner asserts again that time-out logic 113 of *Mittelstadt* determines a time for which a directional button is pressed. However, as discussed during a telephone interview between Examiner Thanh T. Vu and Attorney Douglas M. Owens, on May 19, 2005, the time-out logic 113 of *Mittelstadt* determines a time period after a button is pressed, not how long the button is pressed, as is clearly recited in Claims 1-2 and 4-5.

Additionally, the Examiner is reminded that for anticipation under 35 U.S.C. §102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. (see MPEP 706.02 (IV)) Therefore, as *Mittelstadt* does not keep track of a time for which a button is being pressed, it is respectfully submitted that the Examiner is incorrect in rejecting Claims 1-5 as being anticipated by *Mittelstadt*, and it is respectfully requested that the rejection be withdrawn.

Based on the arguments and amendments presented above, it is respectfully submitted that independent Claims 1-2 and 4-5 are in condition for allowance. Without conceding the patentability per se of pending dependent Claim 3, it is likewise believed to be allowable by virtue of its dependence on independent Claim 2. Accordingly, reconsideration and withdrawal of the rejection of the dependent claim is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-5, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell". The signature is fluid and cursive, with the first name "Paul" and last name "Farrell" clearly distinguishable.

Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant(s)

DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516
PJF/DMO/las